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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,291	07/30/2001	Klaus-Martin Uhl	A 91127	7788

7590

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,291

Applicant(s)

UHL ET AL.

Examiner

Matthew O Savage

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1723

Applicant's election of group I in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the S or Z shapes recited in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 6, and 13-15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, it is unclear as to what tolerance is implied by the term "approximately". In addition, it is unclear as to whether or not "S-shaped or Z-shaped" refers to one shape, or two alternative shapes.

On lines 1-2 of claim 6, "one of said walls of said first housing part" lacks antecedent basis.

Regarding claims 13-15, it is unclear as to how the limitations to the "work apparatus" further limit the "tank" recited in claim 1 since the work apparatus has not been positively claimed in combination with the tank.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Souza.

With respect to claim 1, Souza discloses a tank having a tank interior and including a first housing part 2 and a second housing part 70 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall 16 configured as one piece with one of the first and second housing parts (see lines 50-56 of col. 4), the filter wall partitioning the tank housing into at least first and second spaces (e.g., one adjacent flow opening 4 and the other adjacent flow opening 6), the tank including a fill opening 4 and an outflow connection 6.

As to claim 5, Souza discloses the first space as including the fill opening 4 and the second space including the outflow connection 6.

Concerning claim 7, Souza discloses the first and second housing parts 2, 70 as having first and second partition surfaces, respectively, which co-jointly define a partition interface, the tank including a solid matter seal 72 at the partition interface, the first and second housing parts being connected to each other with the solid matter seal being disposed therebetween.

Claims 13-15 relate to intended use and carry no patentable weight.

Claims 1-3, 5, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubota et al.

With respect to claim 1, Kubota et al disclose a tank having a tank interior and including a first housing part 2 and a second housing part 3 connected to the first housing part and defining a tank interior co-jointly therewith, a filter wall A configured as one piece with the second housing part, the filter wall partitioning the tank housing into at least first and second spaces (e.g., one adjacent flow each flow opening 1), the tank including a fill opening 1 and an outflow connection 1.

As to claim 2, Kubota et al disclose the filter wall 5 as including a plurality of individual lamellae 5 and each two mutually adjacent ones of the lamellae conjointly defining a gap, the plurality of lamellae extending from a wall of the first housing part 3.

Concerning claim 3, Kubota et al disclose the first and second housing parts 2, 3 conjointly defining a partition plane with the lamellae ending in the partition plane.

As to claim 5, Kubota et al disclose the first space as including the fill opening 1 and the second space including the outflow connection 1.

Claims 13-15 relate to intended use and carry no patentable weight.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al.

Kubota fails to specify the lamellae as being S-shaped or Z-shaped in cross section, however, the selection of such a shape is considered nothing more than one of numerous configurations one of ordinary skill in the art would find obvious in order to provide filtration gaps in the apparatus disclosed by Kubota et al (see In re Dailey, 149 USPQ 47 (CCPA 1976).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al in view of Souza.

Concerning claim 7, Kubota et al disclose the first and second housing parts 2, 3 as having first and second partition surfaces, respectively, which co-jointly define a partition interface. Kubota fails to specify the limitation of the tank including a solid matter seal at the partition interface with the first and second housing parts being connected to each other with the solid matter seal being disposed therebetween. Souza discloses a tank including a solid matter seal 72 at a partition interface with first and

Art Unit: 1723

second housing parts 2, 70 being connected to each other with the solid matter seal being disposed therebetween and suggests that such an arrangement prevents fluid from leaking from the partition interface. It would have been obvious to have modified the apparatus of Kubota et al so as to have included a seal as suggested by Souza in order to prevent fluid from leaking from the partition interface.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souza in view of Baracchi et al.

Souza fails to specify the first and second housing parts as being formed of plastic as recited in claim 8 or fiber reinforced plastic as recited in claim 9. Baracchi et al disclose that it is known to form filter housings from fiber reinforced plastic and suggests that such an arrangement provides the required mechanical and thermal resistance for a specific application (see lines 35-39 of col. 2). It would have been obvious to have modified the apparatus of Souza so as to have included housing parts formed of fiber reinforced plastic as suggested by Baracchi et al in order to provide the mechanical and thermal resistance required for a specific application.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al in view of Baracchi et al.

Kubota et al fail to specify the first and second housing parts as being formed of plastic as recited in claim 8 or fiber reinforced plastic as recited in claim 9. Baracchi et al disclose that it is known to form filter housings from fiber reinforced plastic and suggests

that such an arrangement provides the required mechanical and thermal resistance for a specific application (see lines 35-39 of col. 2). It would have been obvious to have modified the apparatus of Kubota et al so as to have included housing parts formed of fiber reinforced plastic as suggested by Baracchi et al in order to provide the mechanical and thermal resistance required for a specific application.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 6:00am-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 09/916,291

Page 8

Art Unit: 1723

M. Savage

Matthew O Savage
Primary Examiner
Art Unit 1723

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February 20, 2003